

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

WYNONA L. SMITH)	
Claimant)	
VS.)	
)	
AUGUSTA MEDICAL COMPLEX, INC.)	Docket No. 214,080
Respondent)	
AND)	
)	
PHICO INSURANCE COMPANY & WAUSAU UNDERWRITERS INSURANCE CO.)	
Insurance Carriers)	

ORDER

Respondent and Phico Insurance Company requested review of the preliminary hearing Order entered by Administrative Law Judge John D. Clark on August 29, 1996.

ISSUES

The Administrative Law Judge ordered respondent and Phico Insurance Company to pay temporary total disability compensation, medical expenses, and to provide ongoing treatment for claimant's injuries. Respondent and Phico Insurance Company appealed, requesting Appeals Board review of the following issues:

- (1) Whether claimant's accidental injury arose out of and in the course of her employment under K.S.A. 44-534a(a)(2).
- (2) Whether the Administrative Law Judge exceeded his jurisdictional authority pursuant to K.S.A. 44-551(a)(2)(A) in awarding temporary total disability benefits from June 20 through July 25, 1996, in absence of medical evidence that the claimant was temporarily totally disabled pursuant to K.S.A. 44-510c(b)(2).

In its brief, counsel for respondent and Phico Insurance Company clarified that. Respondent does not dispute claimant suffered accidents on the dates alleged, but does dispute said accidents caused or contributed to the injuries for which claimant seeks compensation.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the transcript of the August 29, 1996, preliminary hearing, together with the exhibits admitted into evidence at that hearing, the administrative file and the briefs of the parties, the Appeals Board finds:

For the reasons stated below, the Order of the Administrative Law Judge should be reversed.

Claimant began working for respondent in February of 1995 as a CNA. On September 7, 1995, she received a needle stick to her right ring finger. The next day she reported pain and swelling in her right hand which soon developed into symptoms of pain and numbness extending to the elbow and variable weakness of the right hand. This claim is also for three subsequent accidents. On April 14, 1996, claimant was kicked in her stomach and right hand by a patient. On April 15, 1996, she was struck across her right arm by a patient. On May 14, 1996, her right arm and hand were hit by a patient.

Claimant was ultimately diagnosed as having right carpal tunnel syndrome and right ulnar nerve entrapment at the elbow. Surgical decompression and transposition of the ulnar nerve was done on July 25, 1996. The central question of this preliminary hearing appeal is whether the four accidents described above caused or contributed to claimant's ulnar and median nerve neuropathies. The medical evidence contained in the record as it presently exists suggests that this question should be answered in the negative.

Claimant was treated at the Broadway Occupational Medicine Clinic by Dr. R. L. Wilson. His records are attached to the preliminary hearing transcript as Claimant's Exhibit 3. Included therein is a handwritten note by Dr. Wilson dated January 5, 1996, which contains the following impression:

"This is very confusing - The symptoms began after a needle stick which in & of itself didn't have anything to do with it except the pt. perceived it did. The complaints can't be explained by physical findings; the numbness of the entire rt. forearm & hand does not conform to any nerve distribution. The increase in pain in spite of treatment is unexplainable @ present. There seems to be a significant psychosocial component of this enigma."

The medical records of the other treating and examining physicians likewise contain no opinions linking claimant's condition to the specific accidents alleged by claimant to be the basis for her claim. The July 25, 1996, surgery was performed by orthopedic surgeon George L. Lucas, M.D. His August 14, 1996, narrative report to claimant's counsel is

Claimant's Exhibit 1 to the preliminary hearing transcript. This report by Dr. Lucas does not contain an opinion relating claimant's condition to her work. The history is given as follows:

"I first saw Ms. Smith at the K.U. Clinic on the 31st of January, 1996. This patient gives a somewhat convoluted history of having sustained a needle stick to her right ring finger while at work for the Augusta Medical Center a month previously. She states the finger became swollen, and subsequently she began to note pain in the forearm and pain in the right elbow with a numbing sensation in the little ring finger."

In his report, Dr. Lucas goes on to describe the results of his examinations and treatment, including her work status, but he does not relate the diagnosed conditions for which he is treating claimant either to the specific accidents or the employment in general.

The evidence does not establish a causal connection between the claimant's physical condition or injuries and the accidents at work. Although respondent admits to the four work-related accidents, claimant has not met her burden of proving her injuries arose out of and in the course of her employment. Accordingly, the Order by the Administrative Law Judge granting compensation should be reversed.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the August 29, 1996, Order of Administrative Law Judge John D. Clark should be, and the same is hereby, reversed.

IT IS SO ORDERED.

Dated this ____ day of November 1996.

BOARD MEMBER

c: Randy S. Stalcup, Wichita, KS
Scott J. Mann, Hutchinson, KS
Douglas C. Hobbs, Wichita, KS
John D. Clark, Administrative Law Judge
Philip S. Harness, Director